



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,546	01/17/2001	Lynn E. Spittler	204372000901	8827

25225 7590 02/26/2003
MORRISON & FOERSTER LLP
3811 VALLEY CENTRE DRIVE
SUITE 500
SAN DIEGO, CA 92130-2332

EXAMINER

UNGAR, SUSAN NMN

ART UNIT	PAPER NUMBER
----------	--------------

1642

12

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1642

1. The Amendment filed December 9, 2002 (Paper No. 11) response to the Office Action of May 31, 2002 (Paper No. 9) is acknowledged and has been entered. Previously pending claims 58-60 have been canceled and claim 56 has been amended. Claim 56 has been withdrawn from further consideration by the examiner under 37 CFR 1.142(b) as being drawn to a non-elected invention.
2. The claim is directed to a method to ameliorate a side effect of anti-neoplasia treatment in a subject, wherein said side effect is mucositis which subject is undergoing treatment with an anti-neoplasia agent which is a distinct method which differs at least in objectives, method steps, response variables, and criteria for success from the method originally presented which is directed to a method to ameliorate a side effect of anti-neoplasia treatment in a subject, wherein said side effect is mucositis which subject has been treated with an anti-neoplasia agent.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 56 is withdrawn from consideration as being directed to a non-elected invention. See 37 C.F.R. § 1.142(b) and M.P.E.P. § 821.03.

3. The amendment filed December 9, 2002 to amend claim 56 to an invention not originally presented is nonresponsive (see MPEP 821.03). The claim is not readable on the originally presented invention for the reasons set forth above. Applicant is given a ONE MONTH time limit or until the expiration of the response period set in the last Office action, whichever is longer, to complete the response. NO EXTENSION OF THIS TIME LIMIT WILL BE GRANTED UNDER

Art Unit: 1642

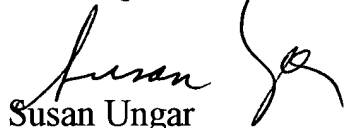
EITHER 37 CAR 1.136(a) OR (b) but the period for response set in the last office action may be extended up to a maximum of SIX MONTHS.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (703) 305-2181. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached at (703) 308-3995. The fax phone number for this Art Unit is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1642.



Susan Ungar
Primary Patent Examiner
February 20, 2003